IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WA.No. 905 of 2003()

AGAINST THE JUDGEMENT IN OP.11031/2000 Dated 13/01/2003

APPELLANT: PETITIONER

K.SASIDHARAN PILLAI, U.D.CLERK,
SUB REGISTRY OFFICE, KADAMBANAD SOUTH P.O.,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENTS: RESPONDENTS
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1. STATE OF KERALA, REPRESENTED BY THE
PRINCIPAL SECRETARY TO GOVERNMENT, TAXES (E)
DEPARTMENT, THIRUVANANTHAPURAM

2. REGISTRATION INSPECTOR GENERAL,
THIRUVANANTHAPURAM.

BY SENIOR GOVERNMENT PLEADER SMT. MEERA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 905 OF 2003 A

Dated this the 18th June, 2007

JUDGMENT

K.T.SANKARAN,J.

The petitioner in O.P.No.11031 of 2000 challenges the judgment of the learned single Judge in this Writ Appeal.

2. The appellant was working as Upper Division Clerk in Sub Registry Office, Kadambanad. He passed the SSLC Examination in the year 1972. The date of birth entered in his Secondary School Leaving Certificate (SSLC) was 4.11.1956. The case of the appellant is that his correct date of birth is 8.5.1957 and the date of birth was wrongly entered in the SSLC Book and service records.

3. The appellant submitted Ext.P2 application dated 28.12.1992, to correct his date of birth in SSLC as 8.5.1957 instead of the entry of the date of birth as 4.11.1956. As per Ext.P10 order dated 15.1.1997, the date of birth in the SSLC was allowed to be corrected. Thereafter, the appellant submitted Ext.P12 application dated 20.2.1997, to correct the date of birth in the Service Book. That application was rejected by Ext.P13 order dated 8.2.2000, on the ground that the application was not submitted within the time stipulated.

4. Ext.P1 Government Order dated 30th December 1991, provides for one more year from the date of the notification to file application for correction of date of birth. The Government Order reads as follows:

> "According to the existing orders, a Government employee can apply for correction of date of birth, entered in his Service Book up to the period beyond two years preceding his retirement reckoned with reference to the date of birth as originally entered in the Service Book.
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> 2. Government feel that the growing tendency on the part of Government employees to get date of birth corrected when they are about to retire has to be discouraged. They have therefore reviewed the entire matter with due regard to the system followed in the case of Central Government employees. Normally the need for correction should not arise at all once one's date of birth is entered in the Service Book because it is the date furnished by him for selection to the post and it is again based on the proof therefore furnished by the employee himself that the entry is made. One realises his date of birth on a number of occasions in his life – the moment he gets his S.S.L.C or secures extract from School Admission Register, when he registers his name in the Employment Exchange, applies for higher studies or furnishes the date of birth in the very application that leads to his entry in Government Service. Thus one's date of birth is entered in his Service Book after full realisation thereof by that individual, over a reasonably long period. The employee also signs the Service Book and thus gets an opportunity to verify whether the date is correctly entered in his Service Book. There is therefore no rationale in allowing a correction at all.
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> 3. Still an opportunity can be granted during the initial periods of one's service to make corrections in bona fide cases Government are pleased to adopt the system followed by

Government of India in this matter. They accordingly order in the modification of the existing orders that applications for correction of date of birth if any needed, in the case of a Government employee shall hereafter be made within five years of one's entry in service. In the case of those who have already crossed this limit, One year time from the date of this order shall be allowed provided they apply beyond the two year period preceding retirement, reckoned with reference to the date of birth as recorded in the Service Book. The applications for correction of date of birth in Service Book shall be submitted to Government in the Administrative Department concerned, through proper channel.

4. The conditions that such applications, in the case of those who have attended a School, shall be supported by attested copies of S.S.L.C./S.S.C.Book or extract of school record as corrected and that mere correction of date of birth in the school record does not entitle the employee for consequential correction of date of birth in Service Book will remain unchanged. Each case will be considered by Government on merits and orders passed.

5. Applications for condonation of delay and for entertainment of applications in relaxation of the condition regarding time limit shall be summarily rejected.

6. Heads of Departments/Offices shall circulate this order to employees.

7. Appointment orders issued in future should also mention the time limit provision as per this order for correction of date of birth so that new entrants to service should not complain later that they were not aware of this provision."

5. Going by Ext.P1 Government Order, the last date for filing the

application for correction of date of birth in the service records was 30.12.1992. In the case on hand, the application was made on 20.2.1997, long after the time stipulated in Ext.P1 Government Order. The application for correction of date of birth in the service records was rejected only on the ground that it was not filed within time. A Division Bench of this Court in **K.Balakrishnan** v. **The State of Kerala** (2003 (1) KLJ 31), has held that the application for correction of date of birth in the service records should be filed within one year from the date of Ext.P1 Government Order, dated 30th December 1991 and if the application is made beyond that date, it is liable to be rejected.

6. Learned single Judge held that Ext.P13 Government Order is in accordance with Ext.P1 notification and that the petitioner in the Original Petition is not entitled to the reliefs prayed for. Going by the Government Order in force, the petitioner could have made the application for correction of date of birth in the service records only till 30.12.1992 and not thereafter. The fact that the date of birth in the SSLC was corrected only as per order dated 15.1.1997 is not a ground for condoning the delay or for extending the time as stipulated in Ext.P1. The contention of the appellant that since he had filed Ext.P2 application to correct the date of birth in the S.S.L.C within

the period of one year from the date of Ext.P1 Government Order, the date of Ext.P2 application shall be treated as the date of application for correction of date of birth in the Service Book, is without substance. The learned single Judge, in our view, was right in holding that the appellant/petitioner in the Original Petition, is not entitled to any relief as prayed for.

The Writ Appeal lacks merit and it is accordingly dismissed.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

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